



## **Battle Creek Zoning Board of Appeals**

### **Staff Report**

Meeting: July 12, 2011  
Appeal #Z-07-11

**To:** Zoning Board of Appeals  
**From:** Glenn Perian, Senior Planner  
**Subject:** Petition for a dimensional variance (Z-07-11) to permit the construction of a detached accessory building in a side yard where the home has an attached garage at 220 Edgebrook Drive.

#### **Summary**

This report addresses a petition from William Helphingstine, seeking approval of a Dimensional Variance (Z-07-11), to construct a detached accessory building in the side yard at 220 Edgebrook Drive.

#### **Background/Project Information**

The subject site is located at 220 Edgebrook Dr. The subject lot is an interior lot and is located in the R-1B "Single Family Residential" District. The minimum lot standards for the R-1B zone include a minimum lot width of 60 feet and a minimum lot area of 7,500 square feet. The subject lot is approximately 152' wide x 167' deep and meets the minimum width and lot area standard for the R-1B zone, however, this particular lot slopes approximately 14' in the rear yard down to a pond fronting M-66. The residential building was originally constructed in 1967 and is located on a flat portion of the lot. The request is to construct a detached accessory building in the side yard to provide additional storage for personal items of the owners. Chapter 1286 of the Zoning Ordinance states that residential accessory structures must be located in the rear yard when the main residential building contains an attached area for the storage of vehicles, personal property, or other accessory uses.

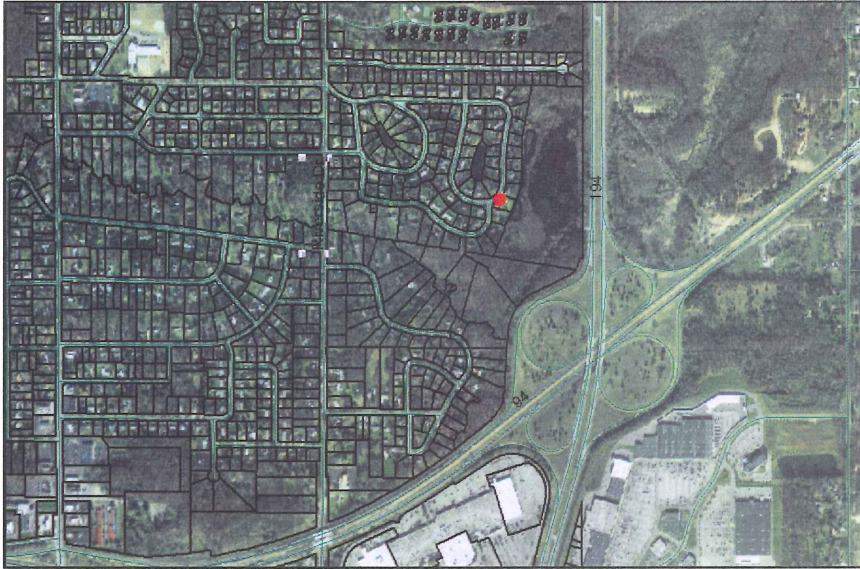
#### **Legal Description**

MINGES BROOK ACRES 3 LOT 103 & N 1/2 OUTLOT C

#### **Public Hearing and Notice Requirements**

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, June 23, 2011, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail on June 22, 2011, to 18 property owners and occupants located within 300 feet of the subject parcel. Planning staff has received no comments relative to this request.



Aerial Photograph of the Subject Site

### **Surrounding Land Uses**

The subject property is located in a residential neighborhood off Riverside just north of I-94 and west of M-66.

### **Applicable Zoning Ordinance Provisions**

Chapter 1234.04 (b) (1) authorizes the Zoning Board of Appeals to grant variations in the yard requirement of any district where there are unusual and practical difficulties in the carrying out of the requirements of the Zoning Code due to the irregular shape of the lot or topographical conditions, provided that such a variation will not seriously affect any adjoining property or the general welfare of the public; and

Chapter 1234.04 (b) (2) authorizes the Zoning Board of Appeals to grant variations, upon appeal, whenever a property owner can show that strict application of the provisions of the Zoning Code relating to the use of buildings or structures or to the use of land will impose upon them unusual and practical difficulties or hardship. This section requires that such variations of the strict application of this Zoning Code as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the Master Plan, as established by the Zoning Code, and that the surrounding property will, at the same time, be properly protected.

### **Analysis**

The Appellant is requesting a side yard variance at 220 Edgebrook Dr. that would authorize the construction of a detached accessory building in a side yard, contrary to limitations outlined in chapter 1286 of the Planning and Zoning Code. The Appellant has stated in the supporting material that the lot slopes severely in the rear yard and makes placing the building behind the house in the rear yard nearly impossible. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report. An aerial photo showing the shape of the lot and existing contours of the lot along with a sketch of the proposed location of the detached accessory building has also



been provided. The Appellant would like to place the building north of the residence in compliance with all other setback requirements for accessory buildings.

Is there something unique about this lot or property that makes relief necessary? We would agree that by definition the lot meets the minimum standards for the R-1B zoning district. We would also agree that the lot slopes approximately 12' in the rear yard making it difficult to locate the building in the rear yard. The Appellant has very limited options other than what is proposed for a location for the accessory building.



### **Findings and Recommendation**

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances. Therefore, the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variance (Z-07-11) based on the following findings contained in this staff report.

- 1) Staff finds that there is unusual and practical difficulty specific to the property in question. We understand that the lot meets the width and area standards for the R-1B district; however, the lot slopes severely in the rear yard leaving the Appellant very limited options for placement of a detached accessory building.
- 2) Granting the variance and thereby permitting the applicant to move forward with the project in spite of the fact it is not in compliance with the zoning ordinance will not seriously affect any adjoining property or the general welfare of the public. Furthermore, we have not heard from any neighbors objecting to the project.
- 3) Staff believes that if the variance in question is granted the property will still be in harmony with the general purpose and intent of the R-1B zoning district in that other properties in the neighborhood have detached accessory buildings.

- 4) Staff believes that if the Zoning Board grants the variance, the side yard waiver will not serve merely as a convenience to the applicant and will alleviate some demonstrable practical difficulty so great as to warrant a variation to the Master Plan.

If the Zoning Board finds that all of the above conditions have been satisfied, then all of the following standards must be met, as well.

- 1) Staff believes that the Appellant has clearly demonstrated that practical difficulty will in fact exist if the variance is not granted. As seen from the aerial with contours attached to this report, the lot slopes approximately 12' in the rear yard, leaving the Appellant very limited options for placement of a detached accessory building other than that what is proposed.
- 2) Staff does not believe the appellant has created the practical difficulty associated with this request.
- 3) Staff believes that the practical difficulties are exceptional and peculiar to the property of the person requesting the variance for the reasons stated in item #1 above.
- 4) Staff believes that the alleged practical difficulties result from conditions which do not generally exist throughout the City in that most lots in the general neighborhood (see aerial on page 2) do not slope to the pond fronting M-66.
- 5) The Appellant has furnished documentation to indicate that practical difficulties do in fact exist. Staff believes that the furnished documentation relative to unique property conditions meet the standards outlined in the Zoning Code authorizing the Board to grant the variance.
- 6) Staff does not believe the term "practical difficulty" is deemed financial hardship in this case.
- 7) Staff believes the alleged practical difficulty which will result in a failure to grant the variance is substantially more than a mere inconvenience in this case.
- 8) Staff believes that by allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the Zoning Code, the individual practical difficulties that will be suffered by a failure of the Board to grant a variance and especially the rights of others whose property would be affected by the allowance of the variance.
- 9) Every finding of fact of the Board shall be supported in the record of proceedings of the Board.
- 10) Nothing contained in this section shall be construed to authorize the Board to change the terms of this Zoning Code.

**Attachments**

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-07-11)
2. Aerial photo of the property showing the contours of the lot
3. A sketch drawing showing the proposed location of the storage shed

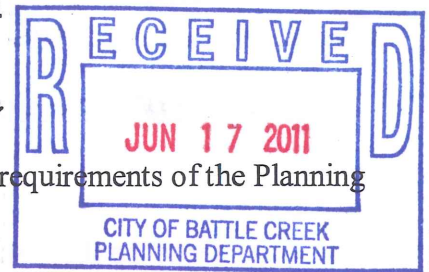


Date: 17 June 2011

Appeal No. Z-07-11

**APPLICATION FOR A VARIANCE**  
**ZONING BOARD OF APPEALS**

*City of Battle Creek, Michigan*



An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: WILLIAM HELPHINGSTONE

Address: 220 EDGEBROOK DRIVE Phone: 964-6084  
BATTLE CREEK, MI 49015

Name of Owner (if different from Appellant): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**TO THE ZONING BOARD OF APPEALS:** Request is hereby made for permission to:  
(Choose One)      Extend      Erect      Waive      Use      Convert      Enclose

Description: ERECT STORAGE BUILDING ON SIDE YARD.

Contrary to the requirements of Section(s) 1286.05 (b) (1) of the Planning and Zoning Code, upon the premises known as 220 Edgebrook Drive Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

TO ALLOW AN ACCESSORY BUILDING ON A  
SIDE YARD

Property/Tax I.D. # No. 5510 - 09 - 703 - 0 Size of the Lot: Width 152 Depth 167

Size of Proposed Building: Width 12 Depth 10 Height 7'

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

The slope of the PROPERTY AT THE REAR  
OF THE LOT DOES NOT PERMIT CONSTRUCTION  
ON THE REAR OF THE LOT (SEE PHOTOGRAPH WITH CONTOURS)

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

CAN'T PUT IT AT REAR OF LOT

BECAUSE OF SLOPE OF LOT.

(c.) Granting the variance would not alter the essential character of the area because:

WOULD NOT DETRACT FROM STREET

VIEW OR VIEW OF POND AT REAR OF LOT.

(d.) The problem is not self-created because:

THE LAND WAS THIS WAY (SLOPING BACK  
YARD) BEFORE THE HOUSE WAS BUILT.

(e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

NOT APPLICABLE.

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

WILLIAM RAY HELPHINGSTINE  
(Print Appellant Name)

William Ray Helphingstine  
(Signature of Appellant)

220 EDGEBROOK DRIVE  
(Address of Appellant) BATTLE CREEK, MI

49015

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

PD \$80 CH#8772



# City of Battle Creek

77 E. Michigan, Battle Creek, MI 49016

Phone: 616-966-3382 Fax: 616-966-3654 Web Site: WWW.BATTLECREEK.ORG

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REC'D JUN 14 2011

## Fence / Utility Zoning Permit Application

(For Fences 6 Feet in Height or Less & Accessory Buildings - Residential 200 sq. Feet in Area or Less and Commercial 120 Sq. Ft. or Less)

PLEASE TYPE OR PRINT: Date Submitted: 14 June 2011 Property ID #: \_\_\_\_\_

I. LOCATION OF BUILDING Address: 220 EDGEBROOK DRIVE  
Battle Creek, MI, 49015

II. TYPE AND COST OF BUILDING (All Applicants Complete Sections A - H)

### A. TYPE OF IMPROVEMENT

☒ New Accessory Building ☐ Addition to Accessory Building ☐ Fence

### B. COST

Cost of Improvement: \$ 3,254

### C. DIMENSIONS (Utility Building)

Total Square Feet: 10x12 = 120 SQ. FT.

D. PRINCIPAL USE: ☒ Residential ☐ Commercial  
(utility buildings) ☒

E. PROJECT DESCRIPTION: Installation / construction of A

10'x12' STORAGE SHED. Item is a Kentland storage building  
purchased from Lowe's.

### F. LICENSED BUILDERS INFORMATION: General Contractor:

Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ E-Mail: \_\_\_\_\_

License #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Worker's Disability Compensation Insurance: Carrier: \_\_\_\_\_

IRS Employer #: \_\_\_\_\_ MESC Employer #: \_\_\_\_\_

### G. OWNER OR LESSEE INFORMATION: Applicant: WILLIAM RAY HELPHINGSTINE

Address: 220 EDGEBROOK DRIVE City/State: BATTLE CREEK, MI Zip: 49015

Phone #: (269) 964-6084 Fax #: ( ) none E-Mail: none

Applicant Signature: William Ray Helphingstine Inspector Approval: \_\_\_\_\_



9/2/03, 1:23 PM

